



National Association of Charterboat Operators

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August 7, 2008

Mr. Alan Risenhoover
Director, Office of Sustainable Fisheries NMFS
1315 East-West Highway SSMC 3
Silver Spring, MD 20910.
Fax: (301) 713-0596.

RE: 0648-AV53

Dear Mr. Risenhoover,

NACO is a national association of over 3,300 charter boat owners and operators across the United States; we are the premier voice for our industry. We appreciate the opportunity to comment on the current proposed rule to revise and update the NMFS procedures for complying with NEPA in the context of fishery management actions.

NEPA can be a stranglehold on managing fisheries in a timely manner. Additionally, it has been used in the past as a basis for lawsuits that gave judges the authority to manage fisheries. Because policy recommendations are developed and alternatives narrowed through the public forum of council meetings, it is important to integrate the analysis of alternatives and impacts for the NEPA analysis with the council's development of recommended management measures and actions. NACO supports integration of this analysis through the council process, which is closer to constituents and allows them the opportunity to comment on various management alternatives while considering the environmental consequences.

We support the two-meeting minimum proposal and the adjustment for councils to consider public comment prior to a vote. We are, however, unclear as to whether this requires two "full" council meetings or if appropriate, could include a committee meeting plus a meeting of the full council to count as two meetings. As some councils may differ on how they conduct their committee and full council meetings, we suggest that the requirement be that the two meetings be held separately and with sufficient time between the two to accommodate as many stakeholders as possible and not as a combined total meeting. In addition, reducing the number of pages of MSA NEPA documents would improve public accessibility and hopefully not overwhelm individuals who attempt to read these documents.

We also support the Integrated Fishery Environmental Management Statement (IFEMS) provision. By specifying this option the agency allows the councils more flexibility. At times in the past, councils have been resistant to accepting new or adjusted alternatives to previously scoped options due to the increased workload required of staff to adjust the EIS documentation. Using the IFEMS approach the councils could take public comment and vote on alternatives not fully explored in the EIS because the IFEMS provides a system to adjust the documents to reflect the changes. However, it should be made clear to the public that once an IFEMS is produced which thoroughly analyzes the effect of routine management actions, use of those actions would not be subject to further detailed analysis. We support the new IFEMS requirement for new actions and that existing FMPs and EISs need not be amended to comply with the new provision. This should not prevent a Council from producing an IFEMS for an existing FMP in order to take advantage of the framework flexibility for future management actions.

The current CEQ guidance encouraged agencies to use Categorical Exclusions (CEs) and Determination of Categorical Exclusions (DCEs). We support the application of CE and DCEs where feasible and request the agency take a proactive approach to this provision.

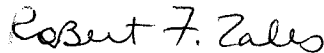
We support using the Framework Implementation Procedure approach to streamline the environmental impact analyses for framework measures, annual specifications, and harvest limit determinations, and other applicable fishery management actions when the impacts are sufficiently considered in the broader parent document. We are very concerned about the potential impacts of this provision. We do fully recognize the agency need not re-analyze uncertainties that have already been considered in prior actions and agree with the proposed alternative in this case. However, pursuant to National Standard 2 the agency is still required to base their decisions on the best scientific information available. We are concerned that allowing the agency to determine whether the cost of obtaining the necessary information is exorbitant without defining what constitutes this standard, and by merely citing stock assessments as always being uncertain we are fostering an ethic inconsistent with NS 2. Therefore, we recommend the agency ensure consistency with existing CEQ regulations by identifying incomplete and unavailable information and the cost/benefit analysis for obtaining it including the cost of delay, as well as what constitutes exorbitant, and how the agency achieved a reasoned decision absent the necessary information. In the case of stock assessments or rebuilding plans where there is statistical variance surrounding a point estimate of stock size or rebuilding times, the variance should be clearly identified. In the case of rebuilding plans, we note that federal courts have ruled that a 50% probability of rebuilding by a specified time is the lowest acceptable.

We support the development of programmatic alternative arrangements for NEPA compliance for emergency and interim actions as specified in the proposed rule. We support the conflict of interest safeguards in the proposed rule to apply when NMFS or the councils select a contractor to work on an analysis and when council members are involved in the development of an IFEMS.

We support allowing scoping to occur concurrently with the public comment process at council meetings. However, the combination of these two functions should not be license to permit extended oral discussion during the course of the meeting. In addition, councils must receive clear guidance from NMFS on the format and content of public notices announcing the scoping session.

We thank you for the opportunity to comment on this proposed rule.

Best Regards,



Capt. Robert F. Zales, II
President

cc:file